IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

MACA.No. 177 of 2007(d)

OPMV.1209/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MANJERI
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APPELLANT/3RD RESPONDENT

THE ORIENTAL INSURANCE CO. LTD.,
MANJERI, REPRESENTED BY ITS ASSISTANT MANAGER,
REGIONAL OFFICE, ERNAKULAM NORTH, KOCHI-18.

BY ADV. SRI.GEORGE CHERIAN (THIRUVALLA)

RESPONDENTS: CLAIMANTS
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1. SHAHIDA, D/O. M.K.C.MOIDEEN,
AGED 19 YEARS, MADHAYAM KALLINGAL (H),
KARUMARAKKAD, VAZHAKKAD.

2. MOHAMMED HAJI, S/O. ALI,
MANNAROTTU HOUSE, CHERUVATHOOR,
VAZHAKKAD, MALAPPURAM DISTRICT.

3. AMINA, W/O. MOHAMMED HAJI,
MANNAROTTU HOUSE, CHERUVATHOOR, VAZHAKKAD.

BY ADV. SRI.K.M.SATHYANATHA MENON FOR RESPONDENTS

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.A.C.A.No.177 OF 2007

Dated 18th June, 2007

JUDGMENT

Koshy,J.

A young man aged 29 died in a motor accident. His father, mother and wife claimed a compensation of Rs.6,00,000/=. The Tribunal awarded Rs.4,60,358/= with 6% interest. Insurance Company filed this appeal questioning the quantum of compensation alone. The main contention of the appellant is that even going by the second schedule, considering the age of the deceased, 18 can be taken as the multiplier and since he died issueless, father and mother are very aged and there is likelihood of remarriage by the wife, multiplier taken as 18 is very high. According to the claimants, a three member bench of the Supreme Court in ***Smt.Supe Dei and others*** v. ***M/s.National Insurance Company Ltd. and another*** (JT 2002 (Suppl.1) SC 451) held that the second schedule framed for the purpose of awarding compensation under Section 163-A serves as a guideline for deciding of compensation under Section 166 also and under second schedule for a person aged between 25 and 30 multiplier is 18. Hence, multiplier 18 fixed by the tribunal need not be changed. The accident occurred in 2001. Counsel for the appellant now submitted that the wife was already remarried which is denied

by the respondents. Such contention was not raised in the written statement. But, there may be likelihood of remarriage as she became a widow at the age of 19. Taking all these circumstances, we are of the view that multiplier of 18 is slightly on the higher side. But, we are of the opinion that multiplicand taken is very low. The deceased was an ITI Diploma holder and Ext.A8 is the National Trade Certificate. He was working in Saudi Arabia. Ext.A6 is the passport which shows the exits and incoming entries. It can be gathered that accident occurred when he came for leave. Ext.A9 is the employment certificate showing that he was getting Rs.2,500 Saudi Riyals equivalent to Rs.22,000/= as per the rate of foreign exchange existing on the date of accident. In ***United India Insurance Co. Ltd.*** v. ***Patricia Jean Mahajan and others*** (JT 2002(5) SC 74) the Supreme Court observed that rate of exchange on the date of judgment can be taken into account. The Tribunal fixed only Rs.3,000/= per month for calculating dependency compensation and thereafter one third was deducted and compensation was calculated. If Rs.22,000/= is taken as monthly income, after deducting one third the multiplicand would have been more than Rs.15,000/=. Here, only Rs.2,000/= was taken as the multiplicand. Even if multiplier is reduced to half i.e., 9, the amount of compensation will not be changed if correct multiplicand

was taken taking into account the monthly income of the deceased at the time of accident. Since a very low multiplicand was taken for calculating compensation, we are of the opinion that no interference is required in the award.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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